D.B. CIVIL SPECIAL APPEAL (W) NO.259/2007

Manju Kanwar Shekhawat Vs. State of Rajasthan & Ors.

Date : 09.04.2007

PRESENT

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE BHANWAROO KHAN

Mr. S.P. Sharma for the appellant.

Having heard learned counsel for the appellant we are satisfied that no interference is called for in this appeal.

According to the appellant, she has passed B.A. Examination merely with 45% marks. In June 2006, she was allowed to take P.T.E.T. Examination for admission to B.Ed. Course in which cut off marks at graduation was 45%. However, notwithstanding taking the PTET Examination 2006 she did not qualify.

Now for the PTET 2007 Examination, under the Examining Policy, the cut off marks for taking PTET Examination have been prescribed to be 50% mark at the

graduation level as eligibility criteria for general category to which the petitioner belongs. She challenges the prescribing of eligibility criteria for general candidates.

The learned Single Judge has dismissed the writ petition pointing to the Supreme Court decision in Arun Tewari Vs. Zila Mansavi Shikshak Sang reported in AIR 1998 SC 331 wherein the Court said that:-

> "...A higher qualification which is prescribed for a particular scheme cannot be considered as violative of Article 14. When candidates with higher qualifications are available, choosing them instead of candidates with inferior qualifications is not violation of Article 14 or 16."

We see no infirmity in the decision of learned Single Judge.

Moreover the learned counsel does not contend that increase in cut off marks for eligibility is itself wrong. His only contention is that it ought to have been from subsequent year and be applied only to those

candidates who passed graduation after prescribing the new eligibility criterion and not to existing graduate. This contention is noticed to be rejected.

It is not a case of making any policy which is operative retrospectively. No question of retrospective operation of eligibility criteria arises. The eligibility criteria applies to all who take PTET Examinations under the existing policy. Passing of graduate examination at any time by itself does not confer eligibility. The criterion of eligibility is to be considered when the entrance test is announced. It is governed by scheme under which it is held.

The appeal, therefore, fails and is dismissed.

[BHANWAROO KHAN], J. [RAJESH BALIA], J.

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